



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 5255-99
3 February 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the United States Marine Corps Reserve filed an application with this Board requesting the transfer of retirement points so that he can earn reserve retirement.

2. The Board, consisting of Mr. Silberman, Mr. Pfeiffer and Mr. Zsalmán, reviewed Petitioner's allegations of error and injustice on 27 January 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner's application was filed in a timely manner.

c. Petitioner served as an enlisted reservist and as a reserve and regular officer from 1976 to 1991 when he was discharged in the grade of CAPT (O-3). He accepted a reserve commission and was subsequently promoted to MAJ (O-4). On 12 February 1992 at the end of his anniversary year, he was credited with 15 qualifying years for reserve retirement purposes.

d. During the anniversary years from 13 February 1992 to 12 February 1996 he earned three qualifying years. In the anniversary year ending 12 February 1997 he was credited with 45 retirement points; not a qualifying years for retirement purposes. In the next anniversary year he was only credited with membership points. The retirement point record shows that he was placed on the inactive status list on 21 May 1998 and was not returned to an active status until 27 August 1998. This action

resulted in a change to his anniversary year. In the anniversary year ending 26 August 1999 he was credited with 59 retirement points and a qualifying year. He has continued to earn retirement points and it appears he will be credited with another qualifying year on 26 August 2000. As of that date he will be credited with 20 years of qualifying service for reserve retirement and five qualifying years in the reserve component since his discharge from the Regular Marine Corps.

e. On 4 August 1999 Petitioner was informed that since he had twice failed of selection to LTCOL (O-5) and had completed 20 years of commissioned service, his separation was required no later than 1 January 2000. He was also informed that he could not be placed in the safety zone because he could not accumulate the required eight years of qualifying service in the reserve component by 1 January 2003. The Board has been informed that Petitioner has been selected for continuation. However, it is unclear whether he can earn eight qualifying years in the reserve component by the end of his continuation period.

f. Subsequent to the letter of 4 August 1999, the current requirement that the last six years of qualifying service be in the reserve component, which was scheduled to expire on 30 September 1999, was extended to expire on 30 September 2000. At that time the requirement will revert to eight years. Whether or not the six year requirement will be further extended is unknown.

g. Petitioner requests that five retirement points be transferred into the anniversary year ending 12 February 1997, a year in which he has been credited with 45 retirement points. With this change he will have 20 qualifying years and the last six qualifying years in the reserve component on 26 August 2000, and he will be eligible for retirement. The Board is aware that if his continuation period extends past 26 August 2002 he can accumulate the last eight years in the reserve component and the reversion to the eight year requirement will no longer be a problem.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner will have 20 qualifying years for retirement, but will not be qualified for retirement because of the requirement that the last six or the last eight years, as the case may be, of qualifying service be in the reserve component. Given the circumstances, the Board concludes that five retirement points should be transferred from the anniversary year ending 12 February 1996 to the anniversary year ending 12 February 1997.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reason the retirement points were transferred.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by transferring five retirement points from the anniversary year ending 12 February 1996 to the anniversary year ending 12 February 1997.

b. That this Report of Proceedings be filed in Petitioner's naval record.

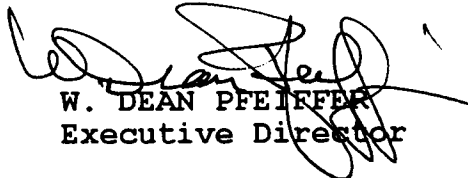
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director